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In re Application of MULLER et al
U.S. Application No.: 09/308,269
Int. Application No.: PCT/DE98/01892
Int. Filing Date: 09 July 1998
Priority Date: 18 September 1997
Attorney Docket No.: R.32491
For: DEVICE FOR MEASURING THE MASS
OF A FLOWING MEDIUM

DECISION

This is in response to applicants' "Response to Withdraw Notice of Abandonment" filed 18 June 2001, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 July 1998, applicants filed international application PCT/DE98/01892, which claimed priority of an earlier Germany application filed 18 September 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 25 March 1999. The twenty-month period for paying the basic national fee in the United States expired at midnight on 18 May 1999.

On 17 May 1999, applicants filed national stage papers in the United States. The submission was accompanied by, *inter alia*, an authorization to charge the basic national fee required by 35 U.S.C. 371(c)(1).

On 02 July 1999, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The Notification of Missing Requirements set a one month period for response.

On 09 June 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 18 June 2001, applicants filed the present petition to withdraw the holding of abandonment. The petition states that it is accompanied by a copy of a response to the Notification of Missing Requirements purportedly filed on 08 July 1999. The petition further states that it is accompanied by a copy of a return postcard which bears a USPTO date stamp of 08 July 1999.

DISCUSSION

The evidence of record is sufficient to establish that a proper response to the Notification of Missing Requirements was originally filed on 08 July 1999. Specifically, the copy of the return postcard, which includes an "EXECUTED DECLARATION" in its itemized contents and which bears a USPTO date stamp of 08 July 1999, serves as *prima facie* evidence that the declaration was received by the USPTO on 08 July 1999.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) is hereby VACATED.

The application has an International Filing Date of 09 July 1998 and a date under 35 U.S.C. 371 of 08 July 1999.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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